

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON**

SHARON ROSE HOWELL,

Plaintiff,

v.

**NANCY A. BERRYHILL, Acting
Commissioner of Social Security,**

Defendant.

Case No. 6:16-cv-271-SB

ORDER

Michael H. Simon, District Judge.

United States Magistrate Judge Stacie F. Beckerman issued Findings and Recommendation in this case on March 23, 2017. ECF 13. Judge Beckerman recommended that the Commissioner's decision be affirmed.

Under the Federal Magistrates Act ("Act"), the Court may "accept, reject, or modify, in whole or in part, the findings or recommendations made by the magistrate." 28 U.S.C. § 636(b)(1). If a party files objections to a magistrate's findings and recommendations, "the court shall make a de novo determination of those portions of the report or specified proposed findings or recommendations to which objection is made." *Id.*; Fed. R. Civ. P. 72(b)(3).

Plaintiff timely filed an objection. ECF 15. Plaintiff argues that the Commissioner erred in finding that Plaintiff was not disabled before March 26, 2013 by improperly rejecting medical evidence, Plaintiff's testimony, and lay witness testimony. Plaintiff further argues that her residual functional capacity is consistent with sedentary work, not light work. The Court has reviewed *de novo* those portions of Judge Beckerman's Findings and Recommendation to which Plaintiff has objected, as well as Plaintiff's objections and Defendant's response. The Court agrees with Judge Beckerman's reasoning regarding the issues to which Plaintiff objects and ADOPTS those portions of the Findings and Recommendation.

For those portions of a magistrate's findings and recommendations to which neither party has objected, the Act does not prescribe any standard of review. *See Thomas v. Arn*, 474 U.S. 140, 152 (1985) ("There is no indication that Congress, in enacting [the Act], intended to require a district judge to review a magistrate's report to which no objections are filed."); *United States v. Reyna-Tapia*, 328 F.3d 1114, 1121 (9th Cir. 2003) (en banc) (holding that the court must review *de novo* magistrate's findings and recommendations if objection is made, "but not otherwise"). Although in the absence of objections no review is required, the Magistrates Act "does not preclude further review by the district judge[] *sua sponte* . . . under a *de novo* or any other standard." *Thomas*, 474 U.S. at 154. Indeed, the Advisory Committee Notes to Fed. R. Civ. P. 72(b) recommend that "[w]hen no timely objection is filed," the Court review the magistrate's recommendations for "clear error on the face of the record."

For those portions of Judge Beckerman's Findings and Recommendation to which neither party has objected, this Court follows the recommendation of the Advisory Committee and reviews those matters for clear error on the face of the record. No such error is apparent.

The Court **ADOPTS** Judge Beckerman's Findings and Recommendation, ECF 13. The Commissioner's decision is **AFFIRMED**.

IT IS SO ORDERED.

DATED this 1st day of May, 2017.

/s/ Michael H. Simon
Michael H. Simon
United States District Judge